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Case Number 94-1223

Supreme Court, U.S.
FILED
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IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1994

GARY T. BROOKMAN, PRO SE, PETITIONER

V.

ROBERT E. RUBIN,

SECRETARY OF THE TREASURY, RESPONDENT

ON PETITION FOR WRIT OF CERTIORARI TO THE

UNITED STATES COURT OF APPEALS FOR THE

SEVENTH CIRCUIT

PETITIONER'S REPLY MEMORANDUM

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ARGUMENT

TOPIC: ALLEGED TARDY MOTION FILING

Respondent, in their Brief in Opposition, asserts the Petitioner was tardy in his filing of his Motion, with Memorandum"to supply omissions in record and, stay judgment and order entered. (Docket Entries, U.S.D.C., Northern District of Illinois, Eastern Division; Numbers 56 and 57 of June 15, 1994).

Brief in Opposition; p. 4; last para.

Respondent's tardiness assertion is not supported by controlling authority. In any event, the Seventh Circuit issued its October 17, 1994 Judgment in response to the Motion identified above.(The Judgment is reprinted in Petition; instant case; @ p. App 1.) The Seventh Circuit did not summarily dismiss the Motion and therefore, in this matter, the case itself.

TOPIC: ABUSE OF JUDICIAL DISCRETION

Respondent argues that " (t)he court of appeals determined that the district court's order denying relief did not constitute an abuse of discretion."

Brief in Opposition; p. 4; last para.

Nevertheless, Respondent cannot deny the absence of the trial transcript from the Record of this case. Respondent also has been served with Petitioner's extensive argument, in his Motion and Petition filings with the relevant courts, on the transcript issue.

Petitioner's extensive argument, vis-a-vis the trial transcript omission, strongly asserted specific judicial error. A leading case supports that argument, to wit "...every presumption of the validity of the judgment...(is that)...Error must appeal affirmatively before there can be a reversal (of that judgment)."

Boley v. Griswold, 87 US 486 at 488, 22 L.Ed. 375 (187?).

Respectfully submitted,

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